

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

BRYANT FUSELIER AND
MELINDA FUSELIER

CIVIL ACTION NO. 6:16-cv-00005

VERSUS

JUDGE HAIK

PROGRESSIVE PALOVERDE
INSURANCE COMPANY

MAGISTRATE JUDGE HANNA

SUA SPONTE JURISDICTIONAL BRIEFING ORDER

The defendant, Progressive Paloverde Insurance Company, removed this action, alleging that this Court has jurisdiction under 28 U.S.C. § 1332, because the parties are diverse in citizenship and the amount in controversy exceeds \$75,000.00. The undersigned reviewed the pleadings and now concludes that Progressive has satisfied its burden with regard to the amount in controversy, but has not satisfied its burden of establishing that the parties are diverse in citizenship.

The burden of proving that complete diversity of citizenship exists rests upon the party invoking the court's diversity jurisdiction.¹ In this case, Progressive, the removing defendant, must bear that burden. Furthermore, when jurisdiction is based

¹ *Getty Oil Corp. v. Insurance Co. of North America*, 841 F.2d 1254, 1259 (5th Cir. 1988).

on diversity, the citizenship of the parties must be distinctly and affirmatively alleged.²

The petition alleged that the plaintiffs are domiciled in Louisiana. Since domicile is synonymous with citizenship,³ the plaintiffs have sufficiently alleged that they are Louisiana citizens.

The plaintiffs alleged that Progressive is “an insurer foreign to Louisiana.” Progressive appears to be a corporation. A corporation’s citizenship is determined by its state of incorporation and the state of its principal place of business.⁴ Neither the plaintiffs in their petition nor the removing defendant in its removal notice provided that information. Therefore, this Court is unable to determine whether the plaintiffs are diverse in citizenship from the defendant.

Accordingly,

IT IS ORDERED that, not later than twenty-one days after the date of this order, Progressive shall file a memorandum setting forth specific facts that support a finding that the parties are diverse in citizenship. These facts should be supported

² *Stafford v. Mobil Oil Corp.*; 945 F.2d 803, 804 (5th Cir. 1991); *Mullins v. Testamerica Inc.*, 300 Fed. App’x 259, 259 (5th Cir. 2008).

³ *Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564, 571 (5th Cir. 2011).

⁴ 28 U.S.C. § 1332(c)(1).

with summary-judgment-type evidence. The plaintiffs will be allowed seven days to respond to the defendant's submission.

Signed at Lafayette, Louisiana, this 11th day of January 2016.

A handwritten signature in black ink, appearing to read 'Patrick J. Hanna', written over a horizontal line.

PATRICK J. HANNA
UNITED STATES MAGISTRATE JUDGE